

APPEAL NO. 041516
FILED AUGUST 10, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 18, 2004. The hearing officer determined that appellant (claimant) was not in the course and scope of her employment when involved in the "team building" event on _____; (2) the claimed injury arose out of voluntary participation in an off-duty social activity not constituting part of claimant's work-related activities, thereby relieving respondent 2 (carrier 2) of liability; (3) (employer 2) was claimant's employer for purposes of the Texas Workers' Compensation Act at the time of the claimed injury; and (4) claimant did not have disability. Claimant appealed these determinations on sufficiency grounds and also contends that the hearing officer misapplied the law. Both respondent 1, Ace American Insurance Company (carrier 1), carrier for (employer 1) and carrier 2, St. Paul Fire and Marine Insurance Company, carrier for employer 2, responded that the Appeals Panel should affirm the hearing officer's decision and order.¹

DECISION

Finding no reversible error under the facts of this case, we affirm.

We have reviewed the complained-of determinations regarding whether claimant was in the course and scope of her employment at the time of the injury and conclude that the issue involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are supported by the record and are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). We further conclude that the hearing officer did not incorrectly apply the law in deciding the course and scope issue. The hearing officer applied Section 406.032(1)(D), which is the applicable law to be considered in this case. The hearing officer could find that claimant was not in the course and scope of her employment at the time of the injury.

Claimant contends the hearing officer erred in determining that employer 2 was claimant's employer for purposes of the Texas Workers' Compensation Act at the time of the claimed injury. From the hearing officer's discussion, it is clear that he believed that attendance at the social event of _____, was not a reasonable expectancy of either employer. The hearing officer apparently determined that attendance at the event of _____, was not expressly or impliedly required by either employer 1 or employer 2. Therefore, since claimant was not in the course and scope of employment with either employer 1 or employer 2 at the time of the injury, we perceive no reversible error in this regard. Because there was no compensable

¹ The hearing officer listed only one carrier in the heading for the decision and order, but two carriers participated as parties at the hearing.

injury in the course and scope of employment, there can be no disability and we perceive no error in the hearing officer's disability determination.

We affirm the hearing officer's decision and order.

According to information provided by carrier 1, the true corporate name of the insurance carrier is **ACE AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

According to information provided by carrier 2, the true corporate name of the insurance carrier is **ST. PAUL FIRE AND MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TEXAS 78701.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge